

## **REMARKS**

Claims 21-38 are pending. Upon entry of the foregoing amendment, claims 21, 31, 37, and 38 will be amended. No claims will be canceled. No new matter is added by the amendment. Support for the claim amendments may be found throughout the specification as originally filed, for example at page 7, line 29 through page 8, line 5. Claims 21, 31, 37, and 38 are the independent claims.

### **Examiner interview summary**

Applicant gratefully acknowledges the time and attention afforded to Applicant's undersigned attorney and Attorney Joseph R. Condo (Reg. No. 42,431) by Examiner Williams during a July 25, 2008, telephonic interview. During the interview, the undersigned and Mr. Condo distinguished Applicant's dual-mode commercial/secure modem from the teachings of the cited art. As suggested by the Examiner, Applicant has clarified the distinction by amending the claims to recite "establishing a commercial signaling data link layer if the far-end modem is determined to be a commercial modem and establishing a secure signaling data link layer if the far-end modem is determined to be a secure modem."

### **Claims 21-30, and 37**

Independent claims 21 and 37 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over the teachings of United States Patent No. 6,549,587 to Li ("Li") in view of United States Patent No. 5,903,603 to Kennedy *et al.* ("Kennedy").

Applicant respectfully submits the claims patentably define over the cited references because the cited references do not teach or suggest establishing a commercial signaling data link layer if the far-end modem is determined to be a commercial modem and establishing a secure signaling data link layer if the far-end modem is determined to be a secure modem, as recited in Applicant's claims.

The present application discloses a modem that operates in either a commercial mode or a secure mode, depending on whether the far-end modem is determined to be a commercial modem or a secure modem, respectively. The disclosed modem determines from a response signal whether the far-end modem is commercial or secure. The disclosed modem establishes

a commercial signaling data link layer if the if the far-end modem is determined to be a commercial modem and a secure signaling data link layer if the far-end modem is determined to be a secure modem.

In contrast, Li teaches a typical call setup for an example commercial modem. Kennedy teaches a typical call set up for an example secure modem. Accordingly, the Li modem and the Kennedy modem both *assume* that the far-end modem is of a corresponding type (*i.e.*, commercial or secure). Neither Li nor Kennedy teaches any processing or logic for determining which type of modem the far-end modem is. That is, neither Li nor Kennedy teaches determining whether the far-end modem is a commercial modem or a secure modem. Further, neither Li nor Kennedy teaches establishing a commercial signaling data link layer if the far-end modem is *determined* to be a commercial modem, and a secure signaling data link layer if the far-end modem is *determined* to be a secure modem.

Accordingly, Applicant respectfully submits that independent claims 21 and 37 patentably define over the cited references and that dependent claims 22-30 also patentably define over the cited references at least by virtue of their dependence from a patentable independent claim.

### **Claims 31-36, and 38**

Independent claims 31 and 38 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over the teachings of United States Patent No. 5,963,621 to Dimolitsas *et al.* ("Dimolitsas") in view of United States Patent No. 6,788,651 to Brent *et al.* ("Brent").

Like the argument presented above, Applicant respectfully submits the claims patentably define over the cited references because the cited references do not teach or suggest establishing a commercial signaling data link layer if the far-end modem is determined to be a commercial modem and establishing a secure signaling data link layer if the far-end modem is determined to be a secure modem.

In contrast, Brent teaches a typical call setup for an example commercial modem. Dimolitsas teaches a typical call set up for an example secure modem. Accordingly, the Brent modem and the Dimolitsas modem both *assume* that the far-end modem is of a corresponding type (*i.e.*, commercial or secure). Neither Brent nor Dimolitsas teaches any processing or logic for determining which type of modem the far-end modem is. That is,

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neither Brent nor Dimolitsas teaches determining whether the far-end modem is a commercial modem or a secure modem. Further, neither Brent nor Dimolitsas teaches establishing a commercial signaling data link layer if the far-end modem is *determined* to be a commercial modem, and a secure signaling data link layer if the far-end modem is *determined* to be a secure modem.

Accordingly, Applicant respectfully submits that independent claims 31 and 38 patentably define over the cited references and that dependent claims 32-36 also patentably define over the cited references at least by virtue of their dependence from a patentable independent claim.

### **Conclusion**

In view of the above amendments and remarks, Applicant respectfully submits that the present application is in condition for allowance. Applicant respectfully requests reconsideration of the application and a Notice of Allowance for claims 21-38.

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